No. 85-589 (3)

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

GUS HALL, et al.,

Petitioners,

v.

EDWIN J. SIMCOX, et al.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

SUPPLEMENTAL BRIEF FOR PETITIONERS

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On October 15, 1985, subsequent to the filing of the Petition for Certiorari herein, appellants in No. 85-656, *Secretary of State of Washington v. Socialist Workers Party*, filed a jurisdictional statement in support of their appeal from the judgment of the United States Court of Appeals for the Ninth Circuit.

Although the two cases arise under different state statutes and in different factual settings, they present the same constitutional question: whether a state, consistently with the First and Fourteenth Amendments, may amend its election laws by making the requirements for ballot access by minor parties substantially

more burdensome in the absence of any legitimate state interest, substantial or otherwise, for so doing.

At issue in both cases was the appropriate standard for adjudging the constitutionality of the amended statute. In the instant case, the court found (Pet. A-3) that "[if] a strict standard were applied to this case, Indiana would be in trouble." But it rejected the strict standard in favor of the vague one of "reasonableness," in the belief (Pet. A-6) that it was thereby following "what the Supreme Court does, and not just what it says," and on that basis upheld the Indiana amendment. The court in *Socialist Workers Party*, *supra* at 1418, applied what it called "the analytic process" which this Court mandated in *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983). Finding (at 1422) that the State of Washington had "failed to present an interest substantial enough to warrant the restraint imposed" on the "protected rights" of ballot access, it invalidated the amended statute as violative of the First and Fourteenth Amendmends.

Petitioners believe that the Court can best resolve this conflict between the Seventh and Ninth Circuits, and what the opinion in the instant case calls (see Pet. 8) "the uncertainty" about the standard for judging restrictions on ballot access, by hearing this case and *Socialist Workers Party*, *supra*, together.

Petitioners therefore suggest that if the Court notes probable jurisdiction in *Socialist Workers Party*, it grant the Petition for Certiorari in the instant case and schedule the two for hearing together.

Respectfully submitted,

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